

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

DESHAWN THOMAS,

Defendant.

Docket No.

20 Cr. 626 (PMH)

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**SENTENCING MEMORANDUM FOR  
DEFENDANT DESHAWN THOMAS**

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March 8, 2023

**VIA ELECTRONIC MAIL**

Hon. Philip M. Halpern  
United States District Judge  
Southern District of New York  
300 Quaroppas Street  
White Plains, NY 10601

Re: United States v. DeShawn Thomas, Docket. No. 20 Cr. 626 (PMH)

Dear Judge Halpern:

“There was no stable foundation...no direction...I hold [my mother] dear, but her decisions always affected me in a negative way.” See P.S.R. at ¶92. These statements describe the entirety of DeShawn Thomas’ childhood. The ripple effects of his childhood have defined his life and have been at the core of his poor decisions. This submission focuses upon the understanding of trauma, its effects on DeShawn Thomas's life and the most productive way of re-integrating him into society.

On April 29, 2022, DeShawn Thomas pleaded guilty to a racketeering conspiracy, in violation of 18 U.S.C. §1962(d); and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. §924(c)(1)(A)(i). Congress has mandated, through 18 U.S.C. §3553(a), that this Court to impose a sentence which is sufficient but not greater than necessary to reach the sentencing goals of Congress. Those goals include providing just punishment, protecting the public from the future crimes of the offender and providing necessary vocational and rehabilitative needs of the offender. 18 U.S.C. §3553(a)(2). Contrary to Probation’s cynical assertion, that they, “did not find any mitigating factors that are sufficient to override

the seriousness of the instant offense”, counsel strongly believes that when the Court reviews the context of the traumatic circumstances of DeShawn Thomas' tragic life, the Court will find that a below guidelines sentence and mental health treatment during and subsequent to incarceration, at variance with the Guidelines, is warranted.

## **I. UNDERSTANDING TRAUMA**

### Trauma and its effects

An important component of understanding trauma is realizing that many who have experienced trauma, relive it in different forms: physical sensations, horrific images or nightmares, behavioral reenactments, or a combination of these.<sup>1</sup> The resulting fixation on that trauma, often leads to a compulsive and unrelenting exposure to situations reminiscent of the traumatic experiences.<sup>2</sup> Reliving these traumatic experiences may express itself with an individual harming others and/or harming himself.<sup>3</sup> In fact, behavioral re-enactment of trauma is a major cause of violence.<sup>4</sup> Traumatic childhood experiences, can create adults who have a, "reduced ability to utilize symbols and fantasy to cope with stress...".<sup>5</sup> As a result, these individuals remain in a cycle of reliving old yet powerful trauma.<sup>6</sup>

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<sup>1</sup> See Van der Kolk, Bessel A. (1989). The Compulsion to Repeat the Trauma. Psychiatric Clinics of North America, Volume 12, pp. 389-411.

<sup>2</sup> See Id.

<sup>3</sup> See Id.

<sup>4</sup> See Id.

<sup>5</sup> See supra note 1.

<sup>6</sup> See Id.

Poverty and its effects

An important component of understanding poverty and its lifelong effects is in understanding the biological effects of poverty. Poverty is a stressor, particularly in the lives of children. The stress of poverty – not having a stable income, clothes to wear or food to eat – produces increased amounts of a hormone called cortisol, in the brain. An increase in cortisol alters two parts of the brain: the prefrontal lobe and the hippocampus.<sup>7</sup> The prefrontal lobe is responsible for governing executive functions, like “negotiating with people, telling the difference between good and bad, thinking about the consequences of your actions...”.<sup>8</sup> An individual’s hippocampus, is responsible for creating memories of fact, a critical factor in a child’s education.<sup>9</sup> As a result, an attack on these areas of the brain can adversely affect a child’s behavior and performance in the classroom, increasing the chances of involvement with criminal activity. However, science has shown, “the brain’s ability to adapt mean[s] that children and even older people [are] not doomed by biology and environment.”<sup>10</sup>

Additionally, psychological research has determined that, “Poverty forces people to focus on the present... the very definition of self-control is choosing behaviors that favor long-term outcomes over short-term rewards. But why worry about tomorrow if you don’t know

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<sup>7</sup> Dwyer, Jim, “Studying How Poverty Keeps Hurting Young Minds, and What to Do About It”, The New York Times, 03 May 2016

<sup>8</sup> See Id.

<sup>9</sup> See Id.

<sup>10</sup> See Id.

you'll survive today?...[w]orking toward future rewards also requires trust that those rewards will be waiting for you when you get there.”<sup>11</sup>

Recent studies regarding the effects of poverty have indicated that, “poverty, itself, hurts our ability to make decisions about school, finances, and life, imposing a mental burden similar to losing 13 IQ points.”<sup>12</sup> The following exemplifies the thoughts of an individual immersed in the vicious cycle of poverty:

I make a lot of poor financial decisions. None of them matter, in the long term. I will never not be poor, so what does it matter if I don't pay a thing and a half this week instead of just one thing?

It's not like the sacrifice will result in improved circumstances; the thing holding me back isn't that I blow five bucks at Wendy's. It's that now that I have proven that I am a Poor Person that is all that I am or ever will be. It is not worth it to me to live a bleak life devoid of small pleasures so that one day I can make a single large purchase. I will never have large pleasures to hold on to. There's a certain pull to live what bits of life you can while there's money in your pocket, because no matter how responsible you are you will be broke in three days anyway. When you never have enough money it ceases to have meaning. I imagine having a lot of it is the same thing.

Poverty is bleak and cuts off your long-term brain... Whatever happens in a month is probably going to be just about as indifferent as whatever happened today or last week. None of it matters. We don't plan long-term because if we do we'll just get our hearts broken. It's best not to hope. You just take what you can get as you spot it.<sup>13</sup>

## **II. THE EFFECTS OF TRAUMA AND POVERTY ON DESHAWN THOMAS**

DeShawn Thomas was born to the instability, chaos and tumult of Suncirae McRae and Michael Thomas. Michael was infrequently involved in DeShawn's life. For various portions

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<sup>11</sup> Berkman, Elliot T., Psychology Today, “5 Reasons Why Poverty Reduces Self-Control” Psychology Today, 22 September 2015.

<sup>12</sup> Thompson, Derek, “Your Brain on Poverty: Why Poor People Seem to Make Bad Decisions”, The Atlantic, 22 November 2013.

<sup>13</sup> See *Id.*

of DeShawn's childhood, Michael was incarcerated. By the time DeShawn was born, Suncirae already had two daughters, Elaine McRae and Cirae McRae, from a relationship.<sup>14</sup> Suncirae was a crack addict, whose addiction lasted for years throughout DeShawn's life. As a result of Suncirae's crack addiction, she frequently left DeShawn and his sisters in the care of her mother, Velma Gray. When Suncirae was unable to leave the children with Velma, she would find people in the neighborhood to "babysit" the children, or, on more than one occasion, she would bring the children with her to a crack house.

On the occasions when Suncirae left the children with Velma, Suncirae would tell Velma that she only needed the children watched for a few hours. However, a few hours typically became a few days. Suncirae would go to crack houses or parties where she could obtain drugs. [REDACTED]

The chaos within the family was only exacerbated by the physical abuse Suncirae endured at the hands of Michael Thomas, DeShawn's father. Michael frequently, physically abused Suncirae, and he did it in front of DeShawn and his sisters. [REDACTED]

[REDACTED] As a result of her injuries, Suncirae was hospitalized for an extended period of time.

The chaos in the home prompted Elaine and Cirae's father, to take custody of them. However, the New York City Administration for Children's Services became involved in DeShawn's care. He was removed from the home and placed in the care of Velma, at Velma's home. As expected, life did not become better for DeShawn. While living with Velma, he was

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<sup>14</sup> The father of Elaine McRae and Cirae McRae was in the military and stationed in North Carolina when DeShawn was a child, and living with Suncirae, Elaine and Cirae in Brooklyn.

physically and verbally abused. Members of the family frequently told him that his mother did not love him and that she had chosen drugs over him. DeShawn spent approximately, the next six years with Velma. During that time, Suncirae continued to struggle with addiction. She entered a rehab facility and began doing better. As a result, she was granted weekend visits with DeShawn. When she visited DeShawn, members of the family would insult her and call her a “junkie”. The constant insults led to multiple relapses.

During the six years that DeShawn was with Velma, Suncirae met Ronald King. Ronald, like Suncirae, was a crack addict. However, he beat his addiction, and eventually became a counselor in a treatment program. It was at this treatment program, that Suncirae and Ronald would meet. The two became involved in a romantic relationship. As a result of this relationship, the couple had two children, Koree King and Veronica King.

The relationship helped Suncirae find her sobriety. With a newfound sobriety and relationship, Suncirae was able to obtain custody of DeShawn. DeShawn lived with Suncirae and Ronald in the Bronx. “I was able to be a kid”, is the way DeShawn remembered this brief period of life. DeShawn saw Ronald as the father he never had. Ronald would take DeShawn to the park and play video games with him. However, the stability of this time would not last long. Suncirae soon relapsed, delving back into using crack again.

Suncirae wanted Ronald to begin using crack with her. At first, he refused. His constant refusals were the source of multiple arguments at home. However, eventually, Ronald relapsed. The couple’s addiction eventually led to the family losing their home. DeShawn was only 14 years old. As a result of losing their home, Suncirae, DeShawn and his two young sisters lived in the New York City Shelter System for the next year. Although the family secured housing within a year, the instability continued. Suncirae’s addiction continued, and

she engaged in a number of fleeting romantic relationships. One of Suncirae's boyfriends used drugs and became aggressive with DeShawn, resulting in his decision to leave home and live with a friend.

By age 16, after three years of high school, DeShawn had accumulated only "10.58 credits, and had a cumulative average of 57.22%." See P.S.R. at ¶113. He "dropped out" of school in 2003, after an arrest for criminal possession of a loaded firearm in the 3rd degree, a charge for which he was convicted. He was imprisoned for the next 2 years as a result of the conviction.

The trauma, chaos and tumult within the family, occurred in the midst of the backdrop of the poverty, chaos and dysfunction of the inner-city communities in which DeShawn was raised throughout his young life. This poverty, chaos and dysfunction, was however, the result of intentional neglect by City officials. According to George Roniger, former Chase Manhattan Bank economist, who worked for the Economic Development Council during the mid-1970's, the City, had too many blacks and Puerto Ricans, populations with only blue-collar skills, and none of the white collar skills necessary to live in a city shifting from one filled with industrial jobs to a city of white collar industries.<sup>15</sup> Roniger felt that, "Blacks and Puerto Ricans would be better off...in the suburbs or in the sunbelt 'where the [blue collar] jobs are.'"<sup>16</sup> This was also the official opinion of the Municipal Assistance Corporation, the state-backed corporation created to assist New York City with its finances.<sup>17</sup> As a result, George Roniger, the City's Housing and Development Administration chief during the mid-1970's, helped implement a policy of planned

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<sup>15</sup> Fitch, Robert, "The Assassination of New York", New York: Verso, 1993

<sup>16</sup> See Id.

<sup>17</sup> See Id.



shrinkage.<sup>18</sup> Under this policy, the City "cut back transit, sanitation, police and fire protection in poor neighborhoods to the levels which the tax base could support."<sup>19</sup> The policy resulted in ever increasing poor and crime-ridden Black and Puerto Rican communities, while White families found refuge in suburbs outside of New York City. The shifting demographics and increasing crime continued throughout the 1970's, exploding with the onset of the Crack Epidemic in the 1980's. The ripple effects continue to plague Black and Puerto Rican communities throughout New York City.

Judge Weinstein, of the United States District Court for the Eastern District of New York, has observed how chaotic environments and adverse socioeconomic conditions affect children and their relationship with the criminal justice system:

Had the defendants been raised by cohesive, adequate families, most of the difficulties they encountered would probably never have come to pass. Well-resourced, attentive parents would have had the knowledge, ability, and insight to protect their children from many of the difficulties that befell these defendants in their youth, to obtain assistance to deal with their psychological and physical problems, and to obtain crucial opportunities for education, work, and personal growth. Even those with learning disabilities would likely have been provided available resources to overcome their impairments at public expense. That the defendants were born into circumstances without such support is at the center of this tragedy.

see United States v. Bannister, 786 F. Supp. 2d 617, 688-89 (E.D.N.Y. 2011).

DeShawn has two children, ages 2 and 3 with his partner, Aleina DiMarco. According to the P.S.R., Aleina "[REDACTED]

[REDACTED] Ms. DiMarco stated that both she and Thomas were raised without their fathers and neither of them wish for their

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<sup>18</sup> See Id.

<sup>19</sup> See Id.

children to be raise in the same manner.” See P.S.R. at ¶96. The older of the two children had not yet turned 2 years old at the time of DeShawn’s arrest. Any sentence imposed in this matter should consider the impact of that sentence on the cycle of dysfunction in DeShawn’s life, and how it may continue in the lives of his children. The cycle of dysfunction must end.

### **III. CONDITIONS OF CONFINEMENT**

Throughout his pre-trial detention DeShawn has endured multiple lockdowns. During these lockdowns legal visits to inmates were “modified,” or suspended.<sup>20</sup> Inmates entering the facility were quarantined for 14 days.<sup>21</sup> Recreation groups were cut from full to half groups.<sup>22</sup> The lockdowns were cruel, with prisons ignoring COVID protocols, isolating entire inmate units together regardless of some testing positive for COVID-19, resulting in hundreds of inmates getting sick.<sup>23</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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<sup>20</sup> Eric Kiefer, Patch Staff, *More Coronavirus at Essex County Prison; Activists Keep Up Outcry* (Mar. 25, 2020, 5:03 pm ET; Updated Mar. 26, 2020, 11:51 am ET), [More Coronavirus At Essex County Prison; Activists Keep Up Outcry | Newark, NJ Patch](#). “Attorney visits is (sic) being modified to video conferencing . . . Attorney will be able to meet with their respective clients through video.” See also Steven Rodas, *N.J. Jail to Pause In-Person and Attorney Visits Due to COVID Surge* (Dec. 24, 2021, 3:00 p.m.), [N.J. jail to pause in-person and attorney visits due to COVID surge - nj.com](#).

<sup>21</sup> See, *More Coronavirus At Essex County Prison; Activists Keep Up Outcry | Newark, NJ Patch, supra*.

<sup>22</sup> See, *More Coronavirus At Essex County Prison; Activists Keep Up Outcry | Newark, NJ Patch, supra*. “We have modified the inmate detainee recreation groups to ½ recreation from full recreation. This means that inmates/detainees in POD settings were allowed to all (full) have recreation time on said POD. Now only ½ the population will be allowed to have recreation time on said POD.”

<sup>23</sup> *Pandemic in Prison*, News Team 12, [Pandemic in Prison \(news12.com\)](#) (including audio recorded inmate telephone interviews with News 12 journalists discussing the horrific conditions in place at MDC in the early days of the pandemic.)

DeShawn has experienced other health issues while incarcerated on pretrial detention.<sup>24</sup>

Neither issue has been appropriately addressed while he has been at the MDC. Finally, the lockdowns have restricted visits between DeShawn and his daughters. As a result of the lockdowns, they have been able to visit with DeShawn a total of three times.

Courts in this district have ruled that the conditions at these institutions and the time served by an inmate at those institutions equate to a far worse sentence than they are serving. “It is the ruling of this Court that the conditions to which she was subjected to [at MCC and MDC] [. . .] are as disgusting, inhuman as anything I've heard about any Colombian prison, but more so because we're supposed to be better than that.” United States v. Tiffany Days, No. 19-CR-619, (S.D.N.Y. April 29, 2021) (McMahon, J.) Sentencing Transcript 19:17-20. In recognizing the harsh conditions experienced by inmates such as Mr. Concepcion, many courts in this district have imposed substantially lower sentences.

#### **IV. REDEMPTION**

**Train up a child in the way he should go: and when he is old, he will not depart from it.**  
***Proverbs 22:6***

Although DeShawn Thomas did not have a stable community of family and friends to “train” him “in the way he should go”, DeShawn Thomas is still worthy and capable of redemption. The mother of his children, Aleina DiMarco, has described DeShawn as, “the man I love, my protector, my savior, my best friend, my kids father.” See Exhibit A, Letter from Aleina DiMarco. DeShawn’s redemption will come through his relationship with his family. His redemption must come as a result of conquering the prolific trauma with which he has dealt,

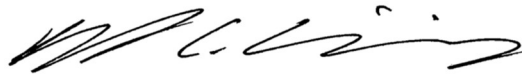
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<sup>24</sup> DeShawn Thomas’ physical condition is detailed in the P.S.R. at ¶¶ 97-104.

and mitigating the negative impact of that trauma, and of his incarceration, in the lives of his children.

DeShawn Thomas has rarely been in a position where others have had faith in his ability to overcome his trauma. He is in a position where this Court can give him another chance at redemption. We respectfully ask that DeShawn Thomas be given a below guidelines sentence, so that he may have the opportunity to rejoin his children's lives, and break the cycle of chaos, tumult and dysfunction that has plagued his life.

Respectfully,

A handwritten signature in black ink, appearing to read 'K. Commissiong', with a stylized, flowing script.

Karloff C. Commissiong  
*Attorney for DeShawn Thomas*

cc: A.U.S.A. Shiva Logarajah (via email)  
A.U.S.A. David Felton (via email)  
A.U.S.A. Courtney Heavey (via email)